IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7574 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ASHOK HEMANTSINH RANA

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MRS SIDDHI TALATI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 18/02/2000

ORAL JUDGEMENT

Heard the learned advocates.

2. The petitioner challenges the order of preventive detention dated 16th June, 1999 made by the Commissioner of Police, Rajkot City in exercise of the powers conferred upon him under sub-section 2 of Section 3 of

the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, `the Act'].

3. The grounds of detention refer to three offences punishable under Chapter-XVI of the Indian Penal Code registered against the petitioner in the months of February, March and June, 1999. Besides, the Detaining Authority has also relied upon the statements given by the two witnesses in respect of the nefarious activities carried on by the petitioner and its adverse effect on the public tranquillity and the even tempo of life. The petitioner is, therefore, held to be a `dangerous person' within the meaning of Section 2 (c) of the Act and his activities are found to be prejudicial to the maintenance of `public order'.

4. It is contended that the petitioner is not much educated and he does not know English language. However, alongwith the records, the detaining authority has placed a copy of the report of medical examination of one of the victims of the offences which is in English. The petitioner being unable to follow the contents of the said document is deprived of making an effective representation. It is also contended that the representation made by the sister of the petitioner was received by the Commissioner of Police on 20th September, 1999, however, the same was not attended to forthwith and was forwarded to the State Government on 24th September, 1999. This delay in forwarding the representation to the State Government is violative of Article 22 (5) of the Constitution of India. The continued detention of the petitioner is illegal, null and void.

5. The contentions raised in the petition are not controverted. However, the learned AGP, after perusing the records, has submitted that the petitioner has acquired formal education upto VIIIth standard and in the representation made by his sister, no reference was made with regard to the petitioner's inability to read English language. It is not disputed that the representation received on 20th September, 1999 by the Commissioner of Police was not forwarded to the State Government till 24th September, 1999. This period when the representation remained pending in the office of the Commissioner of Police is also not explained.

6. In view of the prevailing law, such explained delay should be fatal and the continued detention of the petitioner is null and void. Petition is, therefore, allowed. The impugned order dated 16th June, 1999 is quashed and set-aside. The petitioner, unless is

required to be detained in some other case, be released forthwith. Rule is made absolute to the above extent. There shall be no order as to costs.

***

Prakash*